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6
7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
9 **(HON. THOMAS J. WHELAN)**

10 UNITED STATES OF AMERICA,)

Case No. 07-CR-3210

11 Plaintiff,)

Date: March 3, 2008

Time: 2:00 p.m.

12 v.)

**NOTICE OF MOTION AND MOTION
TO:**

13 **JOSE MACEDO-DE LA CRUZ,**)

**DISMISS THE
INDICTMENT FOR
INVALID DEPORTATION;**

14)
15 Defendant.)
16)
17)

18 **TO: KAREN HEWITT, UNITED STATES ATTORNEY, and**
19 **REBECCA KANTER, ASSISTANT UNITED STATES ATTORNEY**

20 PLEASE TAKE NOTICE that on March 3, 2008 or as soon thereafter as counsel may be
21 heard, the defendant, Jose Macedo-De La Cruz, by and through his counsel, Robert L. Swain,
22 will move this Court to grant the above-entitled motion.

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MOTION

The defendant, Jose Macedo-De La Cruz, by and through his counsel, Robert L. Swain, and pursuant to Rules 6(e), 12, and 16 of the Federal Rules of Criminal Procedure and the Fourth, Fifth and Sixth Amendments to the United States Constitution, and all applicable local rules, hereby moves this court to:

Dismiss the indictment for invalid deportation.

This motion is based upon the attached memorandum, the files and records in the above-captioned matter, the attached exhibits, and any and all other evidence brought before this court before or during the hearing on this motion.

Respectfully submitted,

Dated: February 15, 2008

/s/ Robert L. Swain
ROBERT L. SWAIN
Attorney for Defendant **Macedo de la Cruz**